

Editorial Notes**CODIFICATION**

Section 517 of Pub. L. 94-437 is based on section 166 of title I of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

§ 1660h. Health information technology

The Secretary, acting through the Service, may make grants to urban Indian organizations under this subchapter for the development, adoption, and implementation of health information technology (as defined in section 300jj of title 42), telemedicine services development, and related infrastructure.

(Pub. L. 94-437, title V, § 518, as added Pub. L. 111-148, title X, § 10221(a), Mar. 23, 2010, 124 Stat. 935.)

Editorial Notes**CODIFICATION**

Section 518 of Pub. L. 94-437 is based on section 166 of title I of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

§ 1660i. Deeming an Urban Indian organization and employees thereof to be a part of the public health service for the purposes of certain claims for personal injury

Section 5321(d) of this title shall apply—

(1) to an Urban Indian organization to the same extent and in the same manner as such section applies to an Indian tribe, a tribal organization, and an Indian contractor; and

(2) to the employees of an Urban Indian organization to the same extent and in the same manner as such section applies to employees of an Indian tribe, a tribal organization, or an Indian contractor.

(Pub. L. 94-437, title V, § 519, as added Pub. L. 116-313, § 1, Jan. 5, 2021, 134 Stat. 4929.)

SUBCHAPTER V—ORGANIZATIONAL IMPROVEMENTS**Editorial Notes****CODIFICATION**

This subchapter was in the original title VI of Pub. L. 94-437. Titles IV and V of Pub. L. 94-437 are classified to subchapters III-A and IV of this chapter, respectively.

§ 1661. Establishment of the Indian Health Service as an agency of the Public Health Service**(a) Establishment****(1) In general**

In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, as are or may be on and after November 23, 1988, provided by Federal statute or treaties, there is established within the Public Health Service of the Department the Indian Health Service.

(2) Director

The Service shall be administered by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report to the Secretary. Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 2008, the term of service of the Director shall be 4 years. A Director may serve more than 1 term.

(3) Incumbent

The individual serving in the position of Director of the Service on the day before March 23, 2010, shall serve as Director.

(4) Advocacy and consultation

The position of Director is established to, in a manner consistent with the government-to-government relationship between the United States and Indian Tribes—

(A) facilitate advocacy for the development of appropriate Indian health policy; and

(B) promote consultation on matters relating to Indian health.

(b) Agency

The Service shall be an agency within the Public Health Service of the Department, and shall not be an office, component, or unit of any other agency of the Department.

(c) Duties

The Director shall—

(1) perform all functions that were, on the day before March 23, 2010, carried out by or under the direction of the individual serving as Director of the Service on that day;

(2) perform all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and provision and utilization of, health services for Indians, including by ensuring that all agency directors, managers, and chief executive officers have appropriate and adequate training, experience, skill levels, knowledge, abilities, and education (including continuing training requirements) to competently fulfill the duties of the positions and the mission of the Service;

(3) administer all health programs under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including programs under—

(A) this chapter;

(B) section 13 of this title;

(C) the Act of August 5, 1954 (42 U.S.C. 2001 et seq.);

(D) the Act of August 16, 1957 (42 U.S.C. 2005 et seq.); and

(E) the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.);¹

(4) administer all scholarship and loan functions carried out under subchapter I;

(5) directly advise the Secretary concerning the development of all policy- and budget-related matters affecting Indian health;

¹ See References in Text note below.

(6) collaborate with the Assistant Secretary for Health concerning appropriate matters of Indian health that affect the agencies of the Public Health Service;

(7) advise each Assistant Secretary of the Department concerning matters of Indian health with respect to which that Assistant Secretary has authority and responsibility;

(8) advise the heads of other agencies and programs of the Department concerning matters of Indian health with respect to which those heads have authority and responsibility;

(9) coordinate the activities of the Department concerning matters of Indian health; and

(10) perform such other functions as the Secretary may designate.

(d) Authority

(1) In general

The Secretary, acting through the Director, shall have the authority—

(A) except to the extent provided for in paragraph (2), to appoint and compensate employees for the Service in accordance with title 5;

(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

(C) to manage, expend, and obligate all funds appropriated for the Service.

(2) Personnel actions

Notwithstanding any other provision of law, the provisions of section 5116 of this title,² shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a).

(Pub. L. 94-437, title VI, § 601, as added Pub. L. 100-713, title VI, § 601(a), Nov. 23, 1988, 102 Stat. 4824; amended Pub. L. 102-573, title VI, §§ 601, 602(a)(1), (c), title IX, § 902(6), (7), Oct. 29, 1992, 106 Stat. 4571, 4592; Pub. L. 111-148, title X, § 10221(a), Mar. 23, 2010, 124 Stat. 935.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(3)(A), was in the original “this Act”, meaning Pub. L. 94-437, Sept. 30, 1976, 90 Stat. 1400, known as the Indian Health Care Improvement Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

Act of August 5, 1954, referred to in subsec. (c)(3)(C), is act Aug. 5, 1954, ch. 658, 68 Stat. 674, which is classified generally to subchapter I (§ 2001 et seq.) of chapter 22 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

Act of August 16, 1957, referred to in subsec. (c)(3)(D), is Pub. L. 85-151, Aug. 16, 1957, 71 Stat. 370, which is classified generally to subchapter II (§ 2005 et seq.) of chapter 22 of Title 42. For complete classification of this Act to the Code, see Tables.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), referred to in subsec. (c)(3)(E), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which was classified principally to subchapter II (§ 450 et seq.) of chapter 14 of this title prior to editorial reclassification as chapter 46 (§ 5301 et seq.) of this title.

² So in original. The comma probably should not appear.

For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

CODIFICATION

Amendment by Pub. L. 111-148 is based on section 171 of title I of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

“On and after November 23, 1988,” referred to in subsec. (a)(1), was in the original “hereafter” and was translated as meaning the date of enactment of Pub. L. 100-713 which added this section rather than the date of enactment of Pub. L. 111-148, which amended this section generally, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1661, Pub. L. 94-437, title VI, § 601, Sept. 30, 1976, 90 Stat. 1412, related to feasibility study and report to Congress, prior to the general revision of this subchapter by Pub. L. 100-713.

AMENDMENTS

2010—Pub. L. 111-148 amended section generally, revising and restating provisions relating to establishment of the Indian Health Service as an agency of the Public Health Service and inserting additional provisions relating to responsibilities of the Director.

1992—Subsec. (a). Pub. L. 102-573, § 602(c), inserted at end “Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 1993, the term of service of the Director shall be 4 years. A Director may serve more than 1 term.”

Pub. L. 102-573, § 602(a)(1), substituted “President, by and with the advice and consent of the Senate” for “Secretary” in second sentence.

Subsec. (c)(3)(D). Pub. L. 102-573, § 902(6), substituted “(42 U.S.C. 2005 et seq.)” for “(25 U.S.C. 2005, et seq.)”.

Subsec. (c)(4). Pub. L. 102-573, § 601, added par. (4).

Subsec. (d)(1)(C). Pub. L. 102-573, § 902(7), substituted “appropriated” for “appropriate”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-573, title VI, § 602(a)(2), Oct. 29, 1992, 106 Stat. 4571, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect January 1, 1993.”

EFFECTIVE DATE

Pub. L. 100-713, title VI, § 601(c), Nov. 23, 1988, 102 Stat. 4826, provided that:

“(1) Except as provided in paragraph (2), section 601 of the Indian Health Care Improvement Act [this section] added by subsection (a) of this section shall take effect 9 months from the date of the enactment of this section [Nov. 23, 1988].

“(2) Notwithstanding subsections (b) [set out below] and (c)(1), any action which carries out such section 601 that is taken by the Secretary before the effective date of such section 601 shall be effective beginning on the date such action was taken.”

INTERIM APPOINTMENT

Pub. L. 102-573, title VI, § 602(b), Oct. 29, 1992, 106 Stat. 4571, authorized the President to appoint an individual to serve as Interim Director of the Service from Jan. 1, 1993, until confirmation of a Director.

TRANSFER OF PERSONNEL, RECORDS, EQUIPMENT, ETC., TO INDIAN HEALTH SERVICE

Pub. L. 100-713, title VI, § 601(b), Nov. 23, 1988, 102 Stat. 4826, provided for the transfer within 9 months of Nov. 23, 1988, of personnel, records, equipment, facili-

ties, and interests in property of the Indian Health Service to the Indian Health Service established by Pub. L. 100-713.

§ 1662. Automated management information system

(a) Establishment

(1) The Secretary shall establish an automated management information system for the Service.

(2) The information system established under paragraph (1) shall include—

- (A) a financial management system,
- (B) a patient care information system for each area served by the Service,
- (C) a privacy component that protects the privacy of patient information held by, or on behalf of, the Service, and
- (D) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each area office of the Service.

(b) Provision to Indian tribes and organizations; reimbursement

(1) The Secretary shall provide each Indian tribe and tribal organization that provides health services under a contract entered into with the Service under the Indian Self-Determination Act [25 U.S.C. 5321 et seq.] automated management information systems which—

- (A) meet the management information needs of such Indian tribe or tribal organization with respect to the treatment by the Indian tribe or tribal organization of patients of the Service, and
- (B) meet the management information needs of the Service.

(2) The Secretary shall reimburse each Indian tribe or tribal organization for the part of the cost of the operation of a system provided under paragraph (1) which is attributable to the treatment by such Indian tribe or tribal organization of patients of the Service.

(3) The Secretary shall provide systems under paragraph (1) to Indian tribes and tribal organizations providing health services in California by no later than September 30, 1990.

(c) Access to records

Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.

(Pub. L. 94-437, title VI, §602, as added Pub. L. 100-713, title VI, §601(a), Nov. 23, 1988, 102 Stat. 4825; amended Pub. L. 102-573, title IX, §901(3), Oct. 29, 1992, 106 Stat. 4591.)

Editorial Notes

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (b)(1), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, which is classified principally to subchapter I (§5321 et seq.) of chapter 46 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

AMENDMENTS

1992—Subsec. (a)(3). Pub. L. 102-573 struck out par. (3) which directed Secretary to submit report to Congress no later than Sept. 30, 1989.

§ 1663. Office of Direct Service Tribes

(a) Establishment

There is established within the Service an office, to be known as the “Office of Direct Service Tribes”.

(b) Treatment

The Office of Direct Service Tribes shall be located in the Office of the Director.

(c) Duties

The Office of Direct Service Tribes shall be responsible for—

- (1) providing Service-wide leadership, guidance and support for direct service tribes to include strategic planning and program evaluation;
- (2) ensuring maximum flexibility to tribal health and related support systems for Indian beneficiaries;
- (3) serving as the focal point for consultation and participation between direct service tribes and organizations and the Service in the development of Service policy;
- (4) holding no less than biannual consultations with direct service tribes in appropriate locations to gather information and aid in the development of health policy; and
- (5) directing a national program and providing leadership and advocacy in the development of health policy, program management, budget formulation, resource allocation, and delegation support for direct service tribes.

(Pub. L. 94-437, title VI, §603, as added Pub. L. 111-148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935.)

Editorial Notes

CODIFICATION

Section 603 of Pub. L. 94-437 is based on section 172 of title I of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

PRIOR PROVISIONS

A prior section 1663, Pub. L. 94-437, title VI, §603, as added Pub. L. 102-573, title VI, §603, Oct. 29, 1992, 106 Stat. 4571, authorized appropriations through fiscal year 2000 to carry out this subchapter, prior to repeal by Pub. L. 111-148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935. The repeal is based on section 101(b)(10) of title I of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

§ 1663a. Nevada Area Office

(a) In general

Not later than 1 year after March 23, 2010, in a manner consistent with the tribal consultation policy of the Service, the Secretary shall submit to Congress a plan describing the manner and schedule by which an area office, separate and distinct from the Phoenix Area Office of the Service, can be established in the State of Nevada.

(b) Failure to submit plan

(1) Definition of operations funds

In this subsection, the term “operations funds” means only the funds used for—

(A) the administration of services, including functional expenses such as overtime, personnel salaries, and associated benefits; or

(B) related tasks that directly affect the operations described in subparagraph (A).

(2) Withholding of funds

If the Secretary fails to submit a plan in accordance with subsection (a), the Secretary shall withhold the operations funds reserved for the Office of the Director, subject to the condition that the withholding shall not adversely impact the capacity of the Service to deliver health care services.

(3) Restoration

The operations funds withheld pursuant to paragraph (2) may be restored, at the discretion of the Secretary, to the Office of the Director on achievement by that Office of compliance with this section.

(Pub. L. 94-437, title VI, § 604, as added Pub. L. 111-148, title X, § 10221(a), Mar. 23, 2010, 124 Stat. 935.)

Editorial Notes

CODIFICATION

Section 604 of Pub. L. 94-437 is based on section 173 of title I of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

SUBCHAPTER V—A—BEHAVIORAL HEALTH PROGRAMS

Editorial Notes

CODIFICATION

Title VII of the Indian Health Care Improvement Act, comprising this subchapter, was originally enacted by Pub. L. 94-437, title VII, as added Pub. L. 102-573, title VII, § 702(a), Oct. 29, 1992, 106 Stat. 4572, and amended by Pub. L. 104-313, Oct. 19, 1996, 110 Stat. 3820; Pub. L. 105-244, Oct. 7, 1998, 112 Stat. 1581; Pub. L. 105-256, Oct. 14, 1998, 112 Stat. 1896; Pub. L. 110-315, Aug. 14, 2008, 122 Stat. 3078. Such title is shown herein, however, as having been added by Pub. L. 111-148, title X, § 10221(a), Mar. 23, 2010, 124 Stat. 935, without reference to such intervening amendments because of the extensive revision of the title's provisions by Pub. L. 111-148. A prior title VII was renumbered VIII by Pub. L. 102-573 and is classified to subchapter VI of this chapter.

PART A—GENERAL PROGRAMS

§ 1665. Definitions

In this part:

(1) Alcohol-related neurodevelopmental disorders; ARND

The term “alcohol-related neurodevelopmental disorders” or “ARND” means, with a history of maternal alcohol consumption during pregnancy, central nervous system abnormalities, which may range from minor intellectual deficits and developmental delays to mental retardation. ARND children may have behavioral problems, learning disabilities, problems with executive functioning, and attention disorders. The neurological defects of ARND may be as severe as FAS, but

facial anomalies and other physical characteristics are not present in ARND, thus making diagnosis difficult.

(2) Assessment

The term “assessment” means the systematic collection, analysis, and dissemination of information on health status, health needs, and health problems.

(3) Behavioral health aftercare

The term “behavioral health aftercare” includes those activities and resources used to support recovery following inpatient, residential, intensive substance abuse, or mental health outpatient or outpatient treatment. The purpose is to help prevent or deal with relapse by ensuring that by the time a client or patient is discharged from a level of care, such as outpatient treatment, an aftercare plan has been developed with the client. An aftercare plan may use such resources as a community-based therapeutic group, transitional living facilities, a 12-step sponsor, a local 12-step or other related support group, and other community-based providers.

(4) Dual diagnosis

The term “dual diagnosis” means coexisting substance abuse and mental illness conditions or diagnosis. Such clients are sometimes referred to as mentally ill chemical abusers (MICAs).

(5) Fetal alcohol spectrum disorders

(A) In general

The term “fetal alcohol spectrum disorders” includes a range of effects that can occur in an individual whose mother drank alcohol during pregnancy, including physical, mental, behavioral, and/or learning disabilities with possible lifelong implications.

(B) Inclusions

The term “fetal alcohol spectrum disorders” may include—

- (i) fetal alcohol syndrome (FAS);
- (ii) partial fetal alcohol syndrome (partial FAS);
- (iii) alcohol-related birth defects (ARBD); and
- (iv) alcohol-related neurodevelopmental disorders (ARND).

(6) FAS or fetal alcohol syndrome

The term “FAS” or “fetal alcohol syndrome” means a syndrome in which, with a history of maternal alcohol consumption during pregnancy, the following criteria are met:

(A) Central nervous system involvement, such as mental retardation, developmental delay, intellectual deficit, microencephaly, or neurological abnormalities.

(B) Craniofacial abnormalities with at least 2 of the following:

- (i) Microphthalmia.
- (ii) Short palpebral fissures.
- (iii) Poorly developed philtrum.
- (iv) Thin upper lip.
- (v) Flat nasal bridge.
- (vi) Short upturned nose.

(C) Prenatal or postnatal growth delay.